

Attorney Docket: 2185.010USU (060695-0019)
Resp. and Amdt. Dated Dec. 29, 2004

PATENT APPL. SER. NO. 10/657,722
Reply to Office Action of June 29, 2004

Remarks/Arguments:

Claims 1-20 are currently pending in the instant application. Claims 9, 18 and 19 are amended herein to correct minor typographical and antecedent basis errors. In the Office Action dated June 29, 2004, Claims 1-20 were rejected. In addition, the Examiner objected to the drawings. The particular issues raised in the Office Action are discussed in detail below.

Drawings:

The Examiner objected to the drawings because the label 115" purportedly was not clear in FIG. 9, and the notation "FIG. 10" appeared in FIG. 13 near reference number 215. The drawings were also objected to because the reference number 235 appeared in FIG. 12 but was not used in the specification. In response, Applicant has amended FIG. 9 to more clearly show the label 115" and deleted the "FIG. 10" notation from FIG. 13 and the reference number 235 from FIG. 12. In addition, Applicant has deleted reference number 240 from FIG. 13 because that reference number is not used in the specification. Replacement sheets are included in the attached Appendix.

Claim Rejections – 35 U.S.C. § 102(b):

Claims 1-5, 7-11, 13-15, and 17-20 were rejected as being anticipated by U.S. Patent No. 2,537,058 to Jamison et al. ("Jamison"). Applicant respectfully disagrees with the characterization of the disclosure of Jamison and its application to Claims 1-5, 7-11, 13-15, and 17-20.

Claims 1, 10 and 20:

Claims 1, 10 and 20 were rejected because Jamison purportedly discloses all of the elements recited therein. The text of Claims 1, 10 and 20 follow:

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Attorney Docket: 2185.910USU (060695-0019)
Resp. and Amalt. Dated Dec. 29, 2004

PATENT APPL. SER. NO. 10687,722
Reply to Office Action of June 29, 2004

1. A compass assembly comprising:
 - a first member;
 - a second member pivotally connected to said first member at a common end, wherein said first member has an anchor point opposite said common end and said second member retains a marking device opposite said common end; and
 - a compressible cover being connected to said first member and positioned over said anchor point.
10. A compass assembly comprising:
 - a first member;
 - a second member being pivotally connected to said first member;
 - a gripping member being connected to said first member and said second member; and
 - a compressible cover being positioned on said first member and around a pointed end of said first member.
20. A method of using a compass assembly comprising:
 - pivoting a first member relative to a second member, wherein said second member has a marking device connected thereon;
 - grasping a gripping member connected to said first member and said second member;
 - applying downward pressure on a compressible member connected to said first member and covering a pointed end of said first member so that said pointed end protrudes from said compressible member, thereby anchoring said compass assembly to a surface;
 - rotating said compass assembly so that the marking device describes an arc on the surface; and
 - lifting said compass assembly from the surface so that said compressible member extends to a neutral position wherein said pointed end is covered.

MN226511_2.DOC

Attorney Docket: 2185.010US11 (06/06/95-0019)
Resp. and Amdt. Dated Dec. 29, 2004

PATENT APPL. SER. NO. 10/657,722
Reply to Office Action of June 29, 2004

Jamison does not disclose all of the elements of Claims 1, 10 or 20. In particular, Jamison does not disclose a compressible cover as recited in Claims 1 and 10, or a "compressible member connected to said first member and covering a pointed end of said first member" as recited in Claim 20. The device in Jamison, instead, is a cup-like attachment "for enabling a suction grip to be established between a plane surface" and the anchor point. See Jamison, column 1, lines 45-47. In other words, the device in Jamison is a suction cup for fixing or setting the anchor point and preventing the anchor point from slipping or skidding out of place. See Jamison, column 1, lines 7-51. The device in Jamison is not a cover as recited in Claims 1 and 10, and does not cover a pointed end of the first member as recited in Claim 20. Because Jamison does not disclose all of the elements of Claims 1, 10 or 20, Jamison does not anticipate Claims 1, 10 or 20.

Claims 2-9 and 11-19:

Claims 2-9 and 11-19 are dependent claims that depend from either Claim 1 or Claim 10, and thus contain all of the limitations of Claim 1 or Claim 10, including a compressible cover. As discussed above, Claims 1 and 10 are not anticipated by Jamison because Jamison does not disclose a compressible cover. Therefore, Jamison does not teach, disclose or suggest at least one element recited in Claims 2-9 and 11-19 and cannot anticipate these claims.

Claim Rejections – 35 U.S.C. § 103(a)

The Examiner rejected Claim 12 as being unpatentable over Jamison in view of U.S. Patent No. 2,045,298 to Hanle ("Hanle"), and rejected Claims 6 and 16 as being unpatentable

MN226511_2.DOC

Attorney Docket: 2185.0101/SU (060695-0019)
Resp. and Anxlt. Dated Dec. 29, 2004

PATENT APPL. SER. NO. 10657,722
Reply to Office Action of June 29, 2004

over Jamison in view of U.S. Patent No. 6,238,371 to Himbert et al. ("Himbert"). Applicant respectfully disagrees.

As discussed above, Claims 6, 12 and 16 are not anticipated by Jamison because Jamison fails to teach one or more of the elements recited in those claims, namely, a compressible cover. A review of the cited Hanle and Himbert patents does not reveal the teaching of those missing elements. Thus, claims 6, 12 and 16 are not obvious as stated in the Office Action. Applicant respectfully disagrees with the Examiner's assessment of the teachings of Hanle and Himbert with respect to the claim elements that are stated in the Office Action to be taught by those patents but not shown in Jamison. With respect to Claim 12, Hanle does not disclose a gear mechanism connecting the first and second members, but instead discloses a rivet 19 that connects the first and second members. See Hanley, FIG. 1 and column 2, lines 50-55 and column 3, lines 1-3. With respect to Claims 6 and 16, it would not have been obvious to one of ordinary skill in the art to modify the device of Jamison by using the bellows or pleats taught by Himbert. Because the attachment device in Jamison is used to set or fix the anchor point in position and prevent slipping or skidding thereof, particularly by means of vacuum suction, one of ordinary skill in the art would not replace the traditional suction cup-shaped attachment of Jamison with the bellows or pleats of Himbert. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections under 35 U.S.C. § 103(a).

MN226511_2.DOC

Attorney Docket: 2185.010USU (060695-0019)
Resp. and Amdt. Dated Dec. 29, 2004

PATENT APPL. SER. NO. 10/657,722
Reply to Office Action of June 29, 2004

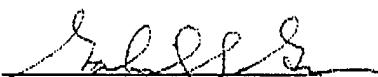
Conclusion

In view of the remarks presented herein, it is respectfully submitted that claims 1-20 are in condition for allowance and reconsideration of same and notice of allowance of the claims is respectfully requested. Applicant also has submitted herewith a Petition for Extension of Time under 37 C.F.R. § 1.136(a) for filing this response and amendment, along with the required fees. A new Power of Attorney and Statement Under 37 C.F.R. § 3.73(b) was previously filed for this application. Applicant submits that no new matter has been added to the application and requests that the Examiner telephone the undersigned in the event a telephone discussion would be helpful in advancing the prosecution of the present application, particularly before the issuance of a final rejection.

Respectfully submitted,

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MN226511_2.DOC

11 of 11